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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,913	01/05/2004	Jon B. Schneider	25815-10901	1982

7590 07/07/2005  
Law Offices of Jerome J. Norris  
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Washington, DC 20006

EXAMINER

GELLNER, JEFFREY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/750,913

Applicant(s)

SCHNEIDER, JON B.

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14, 16, 17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet

Continuation of Attachment(s) 6). Other: translations in English of the complete documents of the following: JP57-90087, JP4-81493, JP 4-314783, JP6-256761 A, JP61-211393.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, and 20 are rejected under 35 U.S.C. §102(b) as being anticipated by Kenmoku et al. (JP57-90087).

As to Claims 14 and 20, Kenmoku et al. discloses a self-coherent particulate magnetic material, or mulch, comprising a mixture of a particulate magnetic material (“ferromagnetic iron oxide” of the abstract in English) and a particulate magnetic attracting material (“K” or “phosphorus” of the abstract in English), the particulate magnetic material particles having a dimension of from about 1 to about 25 millimeters (“0.5 to 2mm” of page 5, 3<sup>rd</sup> para. of the translation in English of the complete document (supplied with this office action)).

As to Claim 16, Kenmoku et al. discloses a self-coherent particulate magnetic material comprising a mixture of a particulate magnetic material (“ferromagnetic iron oxide” of the abstract in English) and a particulate magnetically inert material (in that some of the organic matter in the soil would be magnetically inert material; see abstract in English), the particulate magnetic material particles having a dimension of from about 1 to about 25 millimeters (“0.5 to 2mm” of page 5, 3<sup>rd</sup> para. of the translation in English of the complete document (supplied with this office action)).

***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kenmoku et al. (JP57-90087).

As to claim 17, the limitations of Claim 14 are disclosed as described above. Not disclosed is the particulate magnetic material at least 50% by volume of the mixture. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the mixture of Kenmoku et al. by making the mixture at least 50% particulate magnetic material to achieve a particular goal since the particulate magnetic material can be applied either “by itself” or “in the form of a mixture with the soil” (from abstract in English).

***Response to Arguments***

Applicant's arguments with respect to claims 14, 16, 17, and 20 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments are: (1) no disclosure in Kenmoku et al. of inclusion of a particulate magnetic attracting material or a particulate inert material (Remarks page 5, 1<sup>st</sup> para.); (2) no disclosure in Kenmoku et al. of the use of a self-coherent particulate magnetic material comprising a mixture of particulate magnetic material, particular magnetic attracting material, or particulate magnetically inert material (Remarks page

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5, 6<sup>th</sup> para.); and (3) no self-coherency in the soil conditioner of Kenmoku et al. (Remarks page 6, 1<sup>st</sup> para.)

As to arguments (1)-(3), Kenmoku et al. discloses in Fig. 1 a material (3) which is a mixture of granulated magnetite and soil (page 5, 3<sup>rd</sup> para. of the translation in English of the complete document (supplied with this office action)). The soil would contain at least potassium, phosphoric acid as any agronomic soil would. In addition, agronomic soil would contain organic matter. These elements meet the limitations in the claim language of Applicant. The material is self-coherent in that it comprises similar constituents as that of the Applicant's composition which Applicant defines as self-coherent. In addition, the Kenmoku et al.'s composition is disclosed in a container which would make it self-coherent. The composition of Kenmoku et al. is capable of being spread on a soil so as to act as a classical mulch although Examiner considers the composition as shown to be mulch.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. WO 93/17985 discloses in the prior art various a magnetic material which is capable of being used as a mulch.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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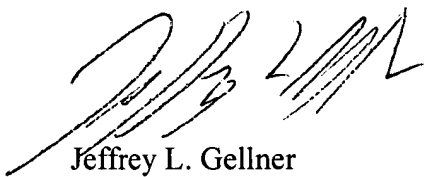
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 571.272.6887. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 571.272.6891. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

A handwritten signature in black ink, appearing to read 'JL Gellner', is written over the printed name.

Jeffrey L. Gellner

Primary Examiner